

PROPOSED REQUIREMENTS FOR WATER SUPPLY AND INFRASTRUCTURE GRANTS

The following items are proposed requirements related to this funding opportunity. These specific items are noted because they may differ from existing TWDB funding programs.

1. Scoring Criteria

Scoring criteria per population allocation will be based on Annual Median Household Income (AMHI) and Service area populations. Additional points will be added for smaller entities with ready-to-proceed projects. A tiebreaker will be given to communities that have never or the greater amount of time since they received financial assistance from the TWDB.

Optionally, points could be given based on additional water supplies provided to wholesale or retail providers, project cost overruns, or other secured funding sources (i.e., WIFIA match).

Justification:

The scoring criteria is intended for entities to prioritize their projects that provide the greatest benefit to disadvantaged communities serving the greatest number of people.

2. Project Phases Eligible for Funding

For small entities (population of 150,000 or less), Planning, Acquisition, Design, and Construction is available. For small entities, it is also proposed that that reimbursement for planning and design costs only be eligible for costs incurred 6/22/2025 or after.

For large entities (population 150,001 or greater), the project must be ready to proceed to construction, meaning planning, acquisition, and design has already been completed.

Justification:

Small entities often do not have the resources for development of projects. Allowing PADC provides them with funding opportunities.

For large entities, focusing on ready-to-proceed projects that are ready to utilize the funds.

3. Readiness to Proceed with Construction

Large entities (population of 150,001 or greater) will need to be ready to proceed with construction, meaning that all planning, acquisition, and design have already been completed. Small entities (population of 150,000 or less) may request funding for planning, acquisition, design, and construction.

Justification:

Due to the need to expedite the distribution of these funds, it is proposed to only allow planning, acquisition, and design funding for small systems, since those are generally systems that have more difficulty securing funds on their own to complete those pre-construction activities.

4. Projects with Previous Funding

If a project previously received funding from a TWDB or other external funding program (except for unclosed SWIFT commitments, or projects with cost overruns), these funds may not be used for the same activities that previously received funding commitments. However, if a project previously received funding commitments for only planning, acquisition or design, the project is eligible to receive funding for construction.

Justification:

Do not want to undo/substitute already existing funding, except for SWIFT unclosed commitments because it could benefit the capacity of the SWIFT.

5. Funding for Land Acquisition

TWDB proposed land acquisition be limited to small entities requesting pre-design funding. Land must already be acquired for a project to qualify as ready to proceed.

Justification:

This proposal is intended to enable projects to utilize funding faster. Land acquisition adds complexity to a project and has the potential to delay project schedules. Land acquisition also requires conveyance coordination to limit the necessity of eminent domain.

6. Funding for Water Rights Acquisition

TWDB proposes the purchase of water rights to be an eligible cost using these funds. The purchase of push-water is not considered either long-term or permanent; therefore, it would not be eligible.

Justification:

Purchasing water rights is a way that systems can secure additional sources of water for future use.

7. Water Conservation Plans, Water Use Survey, Water Loss Audit, and Water Loss Validation

Having up-to-date Water Conservation Plans, Water Use Surveys, Water Loss Audits, and Water Loss Validations is a requirement for securing funding.

Justification:

As these projects will address water supply and water infrastructure, to ensure recipients conserve their current resources and plan for future needs the following will be required:

- Water conservation plan (found at Tex. Water Code §§ 16.402 and 16.4021; 31 TAC § 363.15)
- Water use survey (found at Tex. Water Code § 16.012(m); 31 TAC § 358.5)
- Water loss audit (found at Tex. Water Code § 16.0121; 31 TAC § 358.6) and
- Water loss validation (found at Tex. Water Code §§ 16.0121 and 16.0122; 31 TAC § 358.6)

8. Planning Review

For Ready to Proceed projects, TWDB will not require planning documents.

Justification:

Review of these documents would add additional review time to the application processing and delay commitments. Also, they already invested the time, effort, and cost to complete the design work, which means they had already developed these projects.

9. Environmental Review

TWDB will not issue an environmental finding for Water Supply and Infrastructure Grant projects. TWDB will require an affidavit of self-certification for environmental compliance.

Justification:

These funds do not fall under any specific program statutes or rules.

10. Design Review

Staff Recommendation:

TWDB will rely on TCEQ design approval for Ready-to-Proceed projects. TWDB will need to review Plans and Specifications to ensure these requirements are met:

- a. US I&S
- b. Performance bonds
- c. Retainage

Justification:

US I&S is required by the Government Code 2252 Subchapter G for all state funding.

Performance bonds, retainage, insurance, and other procurement requirements are entity-dependent in statute. Therefore, entities will be required to certify that they are following all applicable requirements.

11. Certificate of Approval (COA)

Issuance of a COA will be required prior to authorization to release final retainage.

Justification:

TWDB must ensure that funds have been utilized in accordance with the committed project.

12. EDIT: Fund Disbursement Requirements

Funds will be disbursed to applicants through an entity-established escrow account. All commitments, grant agreements, and closings to escrow should be completed by May 1, 2027. All WSIG recipients with funds closed to escrow by May 1, 2027, will have until August 31, 2031, to expend their escrowed funds. Under no circumstances should funds leave the escrow accounts after August 31, 2031, unless there was a corresponding reappropriation approval from the Texas Legislature.

Justification:

TWDB must ensure that sufficient time is allotted to review and release funds from project escrow accounts prior to August 31, 2027.

13. EDIT: Escrow Account

Each escrow account will need to be interest bearing. Furthermore, all remaining escrow account funds plus escrow account interest earnings shall be returned to the TWDB no later than September 1, 2031. This is accomplished by completing and submitting a “final accounting” form, no later than September 1, 2031, which will direct the escrow agent to directly return remaining funds to TWDB and close the account on or before October 1, 2031.

Justification:

Per Accounting Policy Statement 018, the TWDB will be required to return unspent funds from the escrow accounts, including interest earnings, by October 31, 2031. Requiring final accountings to be completed and submitted by September 1, 2031, affords the TWDB and escrow agents sufficient time to complete all necessary transactions.